

ROUTING AND RECORD SHEET

SUBJECT: (Optional) H.R. 12039

FROM: Robert W. Gambino
Director of Security
4E 60, Headquarters

EXTENSION

NO.

DATE

30 MAR 1976

25X1A

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Assistant for
Information, DDA
7C 18, Headquarters

RECEIVED FORWARDED

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RB

2.

3. Legislative Counsel
7D 35, Headquarters

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A good memo
stating our
case in good,
concrete terms.

AI/DDA

OS 6 1251-A

30 MAR 1976

MEMORANDUM FOR: Legislative Counsel

FROM : Robert W. Gambino
Director of Security

VIA : Assistant for Information, DDA

SUBJECT : H.R. 12039

REFERENCE : OLC Request for Comments, dated
18 March 1976, Same Subject

1. This is in response to your request for Office of Security comments regarding H.R. 12039, introduced by Representative Bella Abzug.

2. This response has been approached with the understanding that this Office and the Agency in general are anxious to purge records which reflect activity not authorized by our Charter. The only obstacle to the purge is the current moratorium on the destruction of records.

3. Our overall impression of H.R. 12039 is that the proposals therein are unnecessary and presented without full realization of the consequences or the difficulty of implementation. Considering the implications of the "legally maintained" addition to the Privacy Act, along with the proposed revisions beginning on line 4, page 2, the Office of Security offers the following comments:

a. The Privacy Act already has adequate provisions to allow an individual the opportunity to determine if his right to privacy has been violated. He has only to ask. The volume of requests received since passage of the Privacy Act represents solid proof that the public is aware of access specified by the Act.

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b. The proposal specifies that all individuals on record because of CHAOS will be notified. This is not consistent with the "legally maintained" stipulation, since many names associated with CHAOS were obtained legally. Any effort to justify expanded disclosure under the Privacy Act on the premise that CHAOS was a completely illegal operation is not supported by the very reference cited in H.R. 12039, specifically the Rockefeller report.

c. As soon the moratorium of records destruction is lifted, deletion of the names of citizens and permanent resident aliens contained in a file not "legally maintained" will be commenced. If the purpose of H.R. 12039 is to expunge such names, informing the individuals concerned is a completely unnecessary exercise.

d. As H.R. 12039 stands, it can be assumed that Government employees could be prosecuted if they were assigned the responsibility of advising people who figured in CHAOS, etc., and, through no fault of their own, cannot comply. There are many difficulties involved in advising individuals they are on record. As an example, it is a problem to identify a given John Doe who qualifies as one to be advised. If he is identified, no mechanism is available to provide a current address or telephone number, and, in the case of a woman, a name change through marriage is a factor. Are the non-operational record keepers, who must implement the proposed requirement, to be regarded as criminals?

e. Related to the point made immediately above, any effort to identify those to be advised could require the use of the Office of Security investigative capability. This would require a significant adjustment of priorities and conceivably could delay completion of cases involving staffing and support. Further, tracking down individuals to satisfy H.R. 12039 is not now one of the functions allowed by restrictions placed on our Investigators. It is interesting to speculate regarding the problems and misunderstanding which would develop if our field Investigators were sent out on a matter which had nothing to do with applicants, contractors, and the few other limited activities which are authorized.

4. This response has been confined to that portion of H.R. 12039 to which you requested the Office of Security direct its attention.

STATINTL

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Robert W. Gambino

cc: EO/DDA